

REMARKS

Claims 11 and 14 are being cancelled by this amendment. Claims 1-10, and 12-13, are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks set forth below.

REJECTION UNDER 35 U.S.C. § 112

Claims 1-14 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The amendments to the claims contained herein are intended to clarify the definitions of the invention in each of said claims. Particularly, the phrase "such as" in claims 1 and 6 have been deleted to clarify the definition. And, in claim 1, the amendment adds an antecedent basis for the phrase "the upper edge portion." Also, an antecedent has been added for "the stem." Applicant submits that the claims, as now presented and amended, cure similar items.

REJECTION UNDER 35 U.S.C. § 103

Claims 1-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cota (U.S. Pat. No. 3,273,841) in view of Duncan (U.S. Pat. No. 2,513,461). Applicant respectfully traverses this rejection as follows:

Claim 1: Is for a method which includes the retainer being in the form of a thin, bendable, but relatively stiff wire rod which is hooked over the upper edge of the pot wall and extends downwardly adjacent the outside of the pot wall and into the ground at the lower edge of the pot wall. That step is not disclosed in either Cota No. 3,273,841

or Duncan No. 2,513,461. Neither of the references disclose a wire rod arranged along the outside of the pot and which is pushed into the ground at the lower edge of the pot wall when engaging the hook portion of the rod over the upper edge of the pot. A thin, wire rod can be easily pushed downwardly into the earth while its upper end is positioned over the upper edge of the pot. Applicant submits that the claimed method is not feasible with the devices of the prior art references.

Claim 2: Claim 2 depends from claim 1 and adds that the hook portion resiliently grasps the upper edge portion of the pot wall. That step is not disclosed in the cited prior art references.

Claim 3: Method claim 3, depends from claim 1 and includes the same limitations mentioned above for claim 1. Therefore, applicant submits that claim 3 is likewise allowable.

Claim 4: Method claim 4 discloses that the pot wall is tapered downwardly and that the stem is arranged closely adjacent to the wall at an angle corresponding to the pot wall. That feature is not illustrated in either the Cota or Davis references.

Claim 5: Method claim 5, depends from claim 1, thereby incorporating the limitation set forth above, and includes the step of pushing the short or free leg of the rod downwardly into the potting material contained in the pot while pushing the stem portion into the ground. That limitation is not illustrated in either the Cota (3,273,841) or Davis (2,505,885) references.

Claim 6: Independent claim 6 defines the rod as formed of a stiff, wire-like material of greater length than the height of the pot with the rod having an upper reversely-bent portion for grasping and holding the upper edge of the pot and a lower

stem portion of sufficient length to extend into the ground beneath the pot and adjacent the location where the pot wall and bottom are attached, for holding the rod and the pot against tipping. Neither of the cited Cota or Davis references show such a rod type of structure as claimed.

Claim 7: Claim 7 depends from claim 6 and adds the limitation that the rod is made of a resilient material for resiliently grasping and holding the upper edge of the pot wall. That feature, in combination with the limitations set forth in claim 6, is not disclosed in the cited references.

Claim 8: Claim 8 depends from claim 6, and includes the limitation that the retainer stem has a lower straight portion and an upper end portion bent outwardly of the lower stem portion for fitting around and receiving the adjacent pot band. The references do not show this limitation, particularly in combination with the limitations set forth in claim 6.

Claim 9: Claim 9 depends from claim 6, adding that the rod material is resilient for receiving and resiliently gripping the upper edge portion of the pot wall within the hook portion formed on the retainer. This, in combination with the limitations set forth in claim 6, are not disclosed in the cited Cota or Davis references.

Claim 10: Claim 10, which depends from claim 9, includes the limitation that the hook portion's free leg is shaped to penetrate and extend into the potting material when the hook portion receives the upper edge of the pot wall. That limitation, in combination with the limitations of claims 1 and 9, are submitted to be novel and, therefore, the claim is allowable.

Claim 12: Claim 12 depends from claim 6 and adds the limitation that the hook includes a leg portion that extends downwardly and laterally towards the stem portion to provide a space within which the upper edge of a pot fits so that the wire-like, resilient material grips the upper edge of the pot. That limitation, in combination with independent claim 6, is absent from the references cited.

Claim 13: Claim 13 is dependent on claim 6, adding the limitation that the hook free leg and the lower end of the stem portion respectively penetrate the contents of the pot and the ground adjacent the outside of the pot. Applicant submits that that limitation, in the combination set forth in claim 6, is not disclosed in the cited prior art.

CONCLUSION

Applicant believes that, for the reasons given above, the claims remaining in this application are allowable and that the grounds of rejection stated by the Examiner have been properly traversed or, by the amendments, rendered moot. Consequently, applicant respectfully requests that the Examiner reconsider and withdraw all the presently outstanding rejections.

Applicant submits that a full and complete response has been made to the outstanding office action and, as such, the application is now in condition for allowance. Thus, favorable reconsideration of this amendment is respectfully requested.

If the Examiner believes that a personal communication will expedite prosecution of this application, or that there are questions which can be answered through such communication, applicant respectfully requests the Examiner to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: Aug 18, 2004

By: Bernard J. Cantor
Bernard J. Cantor
Registration No. 17,336

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

BJC/tp